

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:15-CV-00140-RJC-DSC**

HUBERT REAPE,)
)
Plaintiff,)
)
v.)
)
RAY MABUS, Secretary of the Navy)
)
Defendant.)

THIS MATTER is before the Court on Plaintiff’s “Motion for the Award of EAJA Fees” (document # 12) filed August 18, 2015, and the parties briefs and exhibits.

For the reasons stated in Plaintiff’s Motion, and in light of this Court’s Order and Judgment remanding this case to the Defendant for further proceedings, the Court concludes that Plaintiff is a prevailing party in this lawsuit and that Defendant’s position in this litigation was not substantially justified within the meaning of the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d)(1)(A).

Pursuant to the power of this Court to award fees to a prevailing party under EAJA, other than the United States, incurred by that party in a civil action against the United States including proceedings for judicial review of agency action, **IT IS HEREBY ORDERED** that the Motion for the Award of EAJA Fees (document #12) is **GRANTED**. Defendant shall pay attorney’s fees and costs in the amount of \$1,938 in full satisfaction of any and all attorney’s fee claims Plaintiff may have in this case under EAJA.

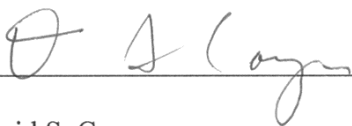
Pursuant to the United States Supreme Court's ruling in Astrue v. Ratliff, 130 S. Ct. 2521 (2010), attorney's fees are payable to Plaintiff as the prevailing party, and are subject to offset through the Treasury Department's Offset Program to satisfy any pre-existing debt Plaintiff may owe to the Government.

Defendant shall determine whether Plaintiff owes a debt to the United States within thirty days of this Order. If so, the debt will be satisfied first, and if any funds remain, they will be made payable to Plaintiff and mailed to Plaintiff's counsel. If the United States Department of the Treasury reports to the Defendant that Plaintiff does not owe a federal debt, the Government shall pay the fees awarded directly to Plaintiff's counsel. No additional petition pursuant to 28 U.S.C. § 2412(d) shall be filed.

The Clerk is directed to send copies of this Order to counsel for the parties, including but not limited to moving counsel; and to the Honorable Robert J. Conrad, Jr..

SO ORDERED.

Signed: September 17, 2015



David S. Cayer
United States Magistrate Judge

